

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
EUREKA DIVISION

BRIAN CHAVEZ, et al.,  
Plaintiffs,

v.

COUNTY OF SANTA CLARA,  
Defendant.

Case No. 15-cv-05277-RMI

**ORDER DENYING MOTION FOR  
LEAVE TO APPEAL IN FORMA  
PAUPERIS**

Re: Dkt. No. 121

Now pending before the court is an application filed by Mr. Howard Hershships seeking leave to appeal *in forma pauperis* (dkt. 121). Mr. Hershships recently moved to intervene, *pro se*, in this settled class action case (dkt. 117). He also filed a Motion for Civil Contempt (dkt. 116) against Defendant County of Santa Clara. The court denied the motions because he is currently represented by class counsel in this case, and also due to the fact that the contentions underling his Motion to Intervene (dkt. 117) are fully embodied in a separate lawsuit that he has filed, and that is currently pending, before another judge of this court. *See Hershships v. Smith et al.*, Case No. 3:20-cv-07208-JD, Amend. Compl. (dkt. 14) at 3-4, 13, 14, 31, 33. For the reasons stated in the Order denying Mr. Hershships leave to intervene in this case (dkt. 119), the court now finds that this appeal is frivolous and not taken in good faith. *See* 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.”). Accordingly, Mr. Hershships’ Motion for Leave to Appeal *in forma pauperis* is **DENIED**. If he so chooses, Mr. Hershships may seek pauper status directly from the Ninth Circuit Court of Appeals. The Clerk of Court shall forward a copy of this order to the Court of Appeals.

//

**IT IS SO ORDERED.**

Dated: September 9, 2021

A handwritten signature in black ink, appearing to read 'RMILLMAN', is written over a horizontal line.

ROBERT M. ILLMAN  
United States Magistrate Judge

United States District Court  
Northern District of California